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IN THE

Supreme Court of the United States

October Term, 1941.

No. 871

PHILIP W. PELTS,

Petitioner,

vs.

RECONSTRUCTION FINANCE CORPORATION,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SEVENTH CIRCUIT AND BRIEF IN SUPPORT THEREOF.

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INDEX.

PAGE

Statement of Matter Involved 1-2

Questions Involved 2

Reasons for the Issuance of the Writ 3

Brief in Support of Petition 5-21

SUMMARY OF ARGUMENT.

I. The Decision in the Instant Case That the Liability of an Undisclosed Bank Stockholder Is Joint and Several With the Liability of the Registered Owner Is in Conflict With Decisions From Other Circuits Which Hold That the Liability Is an Alternative One 7-8

(a) The Texas Case Recognized the Doctrine of Undisclosed Principal As the Basis for the Liability 9

(2) The Decision Is Squarely in Conflict With the Decision of the First and Sixth Circuits.. 10

(3) No Trust Relationship Was Established in the Instant Case 12

II. The Seventh Circuit Failed to Follow the Applicable Illinois Law Involving the Liability Under the Illinois Constitution 13-18

III. The Seventh Circuit Failed to Follow the Illinois Law on the Point That a Bank Stockholder May Relieve Himself From Liability to Subsequent Creditors By a Gift or Transfer of His Stock to a Registered Owner 18-19

IV. The Allowance of Interest on the Stockholders' Superadded Liability Is Not in Accordance With the Illinois Law and It Was the Duty of the Court to Follow the Illinois Law and to Disallow the Interest 19-21

Cases Cited.

Barbour v. Thomas, 7 F. S. 271, 277 11
Bombal v. Peoples State Bank, 367 Ill. 113 18
Bowell v. Newberry, 127 Fed. 656 16

Chapman v. Pettus, 269 S. W. 268 8
Chicago Title & Trust Co. v. De La Soux, 336 Ill. 552 16
Continental Bank & Trust Company v. O'Neil, 82 Fed. (2d) 650 11
Corker v. Soper, 53 F. (2) 190, 191 11

Hodges v. Meriwether, 55 Fed. (2) 29 13
Hospelhorn v. Poe, 174 Md. 242 7
Hubbell v. Houghton, 86 Fed. 547 10

Johnson v. Charles A. Garrigues, 30 F. (2) 251-254, C. C. A. 2 16

Larent v. Andersen, 70 F. (2) 819, 824, C. C. A. 6 11
Lewis v. West Side Trust & Savings Bank, 376 Ill. 11 20
Limousine & Carriage Manufacturing Co. v. Shadburne, 185 Ill. App. 403 13

Madigan Bros. v. Garfield State Bank, 310 Ill. App. 358 17
Mussenden v. Raiffe, 131 Ill. 456 13

Riley v. Bondi, 64 Fed. (2d) 515 11

Scanlan v. Keith, 102 Ill. 634 16
Sluka v. Bielicki, 335 Ill. 202 17
Sykes v. Holloway, 81 Fed. 432 13

Willson v. Labhart, 269 Ill. App. 93 18

Yardley v. Wilgus, 56 Fed. 965 12

Other Citations.

118 A. L. R. 704 15

2 Amer. Juris. p. 314 14

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PETITION FOR WRIT OF CERTIORARI.

To the Honorable the Chief Justice and the Associate Justices of the Supreme Court of the United States:

Petitioner, PHILIP W. PELTS, hereby petitions this Court for the issuance of a writ of certiorari to review the order of the United States Circuit Court of Appeals for the Seventh Circuit entered October 28, 1941, affirming a decree of the lower court entered March 6, 1941, holding petitioner liable as a stockholder of the CENTRAL

REPUBLIC TRUST COMPANY in the amount of $2,400 plus interest at 5% from May 1, 1937, the date when a judgment was taken against the registered owner of the same stock. The order of the Seventh Circuit became final by the denial of a petition for rehearing on December 8, 1941.

The Matter Involved The respondent, RECONSTRUCTION FINANCE CORPORATION, recovered a judgment on May 1, 1937, against EDITH LEVINSON, the registered owner of 24 shares in the CENTRAL REPUBLIC TRUST COMPANY on her stockholders' liability under the Illinois Constitution in the sum of $2,400, which stock was registered in her name as of June 29, 1932 (R. 43, Par. 18). Thereafter, on or about December 13, 1938, respondent learned that petitioner was the transferor of the 24 shares to the registered owner (R. 43, Par. 23). It waited until April 9, 1940, when it filed an Amended Complaint, seeking a second judgment against the petitioner (R. 42, Par. 17) as the real owner of the stock. The Court held that it was equitable that a second judgment be entered against the petitioner in the sum of $2,400 plus interest at 5% from May 1, 1937, the date when the first judgment was entered against the registered owner (R. 44). A supplemental decree was entered accordingly on March 6, 1941 (R. 45). This decree was affirmed by the Seventh Circuit on October 28, 1941 (R. 59), and a rehearing was denied on December 8, 1941 (R. 60).

The Questions Involved The petition for a writ of certiorari presents the following questions: (1) whether the liability of an undisclosed owner of the bank stock is joint and several with that of the registered owner on the theory of the existence of a trust relationship between them; (2)

whether the liability is only alternative calling for an election of remedies; and (3) whether a stockholder may not transfer his stock to a registered owner for the very purpose of relieving himself from liabilities to subsequent creditors of the bank.

Reason for the Issuance of the Writ The grounds for the issuance of the writ are: (1) the conflict between the opinion in the instant case with the opinions of various Circuits on the basic liability of an undisclosed stockholder; (2) the failure of the Seventh Circuit to follow the applicable Illinois law on matters involving substantive rights, and (3) the importance of the questions involved pertaining to liability under the state and national banking laws.

PRAYER FOR RELIEF.

Petitioner prays that a writ of certiorari be issued by this Court to review the order of the United States Circuit Court of Appeals, which affirmed the decree of the District Court for the Northern District of Illinois, holding the petitioner liable to the extent of $2,400 plus interest from May 1, 1937, to the end that the order be reversed with directions to reverse the decree of March 6, 1940, entered by the District Court.

Respectfully submitted,

PHILIP W. PELTS,
Petitioner.

MEYER ABRAMS,
Counsel for Petitioner.